

Engrossed Substitute Senate Bill 6415

Section 1 of the bill makes several legislative findings with respect to stormwater and declares general permits can be an effective and efficient mechanism for permitting large numbers of similar dischargers. The legislature also declares that an inspection and technical assistance program for industrial and construction stormwater general permits is needed to ensure an effective permitting program. The legislature also declares that the inspection program should be fully funded to ensure its success.

Section 2 of the bill defines how, and when numeric and narrative effluent limitations would be included in construction and industrial stormwater general permits. This section also requires construction and industrial stormwater general permits include an enforceable adaptive management mechanism which includes an adaptive management trigger (i.e. benchmarks) monitoring, review and revisions to SWPPPs and remedial actions, and reporting to Ecology.

Section 3 of the bill requires Ecology initiate a inspection and compliance assistance program by January 2005. This section would also require all dischargers covered under the construction and industrial stormwater general permits be inspected at least once within two years of the start of this program (by January 2007). Each permittee must also be inspected at least once each permit cycle thereafter. The bill does not set inspection targets in terms of number of inspections per inspector, however we had to translate number of inspections required into number of inspection FTEs for the fiscal note (see below).

Section 4 of the bill requires Ecology study and submit a report to the legislature on methods to improve the effectiveness of permit monitoring requirements in construction and industrial stormwater general permits. This study is due by December 31, 2006. The study must evaluate monitoring requirements that are necessary to determine compliance or noncompliance with state water quality standards. When conducting the study Ecology must consult with experts in the fields of monitoring, stormwater management, and water quality. When necessary Ecology must also conduct field work to evaluate the practicality and usefulness of alternative monitoring approaches.

Section 5 of the bill requires Ecology establish (raise) permit fees for dischargers covered under the construction and industrial stormwater general permits as necessary to fund the requirements in the bill including the inspection program. This section also requires Ecology to report to the legislature on the method used to establish permit fees for dischargers covered under the construction and industrial stormwater general permits, the amount of permit fees collected, and the expenditure of permit fees. The detailed accounting shall include data on inspections conducted and the staff hired.

What this bill means for our construction and industrial stormwater general permits

Industrial Stormwater General Permit - First, it will very likely lead to a settlement of the industrial stormwater general permit appeal. If (when) we reach a settlement we would modify and put out for public comment the industrial stormwater general permit with the agreed to modified permit language. At the conclusion of the public comment period Ecology would evaluate the comments and make final decisions on the issuance of the modified permit. We do not know when the ISWGP would be modified and re-issued but in previous settlement agreements with the appealing parties we agreed to start the permit modification within 90 days of resolution of all outstanding appeals.

Construction Stormwater General Permits - This bill and the settlement of the ISWGP appeal will open up the door for the revision of the current construction stormwater general permit. At the same time we will address the EPA phase II construction stormwater requirements for 1 - 5 acre sites. We do not know what the timing will be on these activities, since this work is dependent on resources but it could happen "sooner rather than later". This bill should make the development and issuance of construction stormwater general permits easier since we now have some legislative direction for these permits which has been agreed to by many of the more interested and affected parties.

New resources for Ecology to implement the bill including inspection resources

As part of the legislative deliberations on this bill we were asked to put together fiscal notes on the various versions of the bill (three separate ones to date). The fiscal note is where the Ecology details what would be required to implement the bill including additional staff and any increased revenue that may come if the bill were to pass.

This is what we put into the fiscal note for the bill:

Fiscal year 2005 (July 1, 2004 through June 30, 2005)

2.8	New Inspector FTEs
1.0	Permit Manager FTE
0.5	FTE for permit fee administration
0.5	FTE to do monitoring study
4.8	Total New FTEs for FY05

The supplemental budget just passed by the Legislature included authorization for 4.8 new FTEs and \$539,548.00 in new funding to implement ESSB 6415.

For fiscal year 2006 and beyond (July 1, 2006 and beyond) we also put together our anticipated resource needs for this bill. For FY06 we came up with 5.9 new inspector FTEs, and 1 new additional FTE for enforcement beyond what is required for FY05. Additional resources for FY 2006 and beyond are subject to legislative appropriation and are not guaranteed.